

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

**CHRISTOPHER MATTHEW CRUZ**

Registered Nurse License Applicant

Respondent

Case No. 2013-53

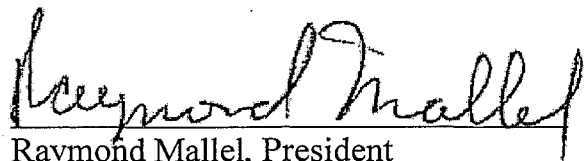
OAH No. 2012080429

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on April 26, 2013.

IT IS SO ORDERED March 28, 2013.



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
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*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
12 Against:

13 **CHRISTOPHER MATTHEW CRUZ**

14  
15 Respondent.

Case No. 2013-53

OAH No. 2012080429

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of  
21 Registered Nursing. She brought this action solely in her official capacity and is represented in  
22 this matter by Kamala D. Harris, Attorney General of the State of California, by Desiree I.  
23 Kellogg, Deputy Attorney General.

24 2. Respondent Christopher Matthew Cruz (Respondent) is represented in this  
25 proceeding by attorney Paul Chan, whose address is: 2311 Capitol Avenue  
26 Sacramento, CA 95816.  
27  
28

3. On or about June 27, 2011, Respondent filed an application dated June 3, 2011, with the Board of Registered Nursing to obtain a Registered Nurse License.

JURISDICTION

4. Statement of Issues No. 2013-53 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on July 23, 2012.

5. A copy of Statement of Issues No. 2013-53 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. 2013-53. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 2013-53.

10. Respondent agrees that his Registered Nurse License application is subject to denial and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

1  
2 CONTINGENCY

3 11. This stipulation shall be subject to approval by the Board of Registered Nursing.  
4 Respondent understands and agrees that counsel for Complainant and the staff of the Board of  
5 Registered Nursing may communicate directly with the Board regarding this stipulation and  
6 settlement, without notice to or participation by Respondent or his counsel. By signing the  
7 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
8 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
9 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
10 Order shall be of no force or effect, except for this paragraph; it shall be inadmissible in any legal  
11 action between the parties, and the Board shall not be disqualified from further action by having  
12 considered this matter.

13 12. The parties understand and agree that facsimile copies of this Stipulated Settlement  
14 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
15 effect as the originals.

16 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
17 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
18 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
19 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
20 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
21 writing executed by an authorized representative of each of the parties.

22 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
23 the Board may, without further notice or formal proceeding, issue and enter the following  
24 Disciplinary Order:

25 DISCIPLINARY ORDER

26 IT IS HEREBY ORDERED that the application of Respondent Christopher Matthew Cruz  
27 for licensure is hereby granted. Upon successful completion of the licensure examination and all  
28 other licensing requirements, a license shall be issued to Respondent. Said license shall

1 immediately be revoked, the order of revocation stayed and Respondent placed on probation for a  
2 period of three (3) years on the following conditions:

3 **Severability Clause.** Each condition of probation contained herein is a separate and  
4 distinct condition. If any condition of this Order, or any application thereof, is declared  
5 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other  
6 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
7 and enforceable to the fullest extent permitted by law.

8 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and  
9 detailed account of any and all violations of law shall be reported by Respondent to the Board in  
10 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with  
11 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within  
12 45 days of the effective date of the decision, unless previously submitted as part of the licensure  
13 application process.

14 **Criminal Court Orders:** If Respondent is under criminal court orders, including  
15 probation or parole, and the order is violated, this shall be deemed a violation of these probation  
16 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

17 2. **Comply with the Board's Probation Program.** Respondent shall fully comply with  
18 the conditions of the Probation Program established by the Board and cooperate with  
19 representatives of the Board in its monitoring and investigation of the Respondent's compliance  
20 with the Board's Probation Program. Respondent shall inform the Board in writing within no  
21 more than 15 days of any address change and shall at all times maintain an active, current license  
22 status with the Board, including during any period of suspension.

23 Upon successful completion of probation, Respondent's license shall be fully restored.

24 3. **Report in Person.** Respondent, during the period of probation, shall appear in  
25 person at interviews/meetings as directed by the Board or its designated representatives.

26 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or  
27 practice as a registered nurse outside of California shall not apply toward a reduction of this  
28 probation time period. Respondent's probation is tolled, if and when he resides outside of

1 California. Respondent must provide written notice to the Board within 15 days of any change of  
2 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
3 returning to practice in this state.

4 Respondent shall provide a list of all states and territories where he has ever been licensed  
5 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide  
6 information regarding the status of each license and any changes in such license status during the  
7 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing  
8 license during the term of probation.

9 **5. Submit Written Reports.** Respondent, during the period of probation, shall submit  
10 or cause to be submitted such written reports/declarations and verification of actions under  
11 penalty of perjury, as required by the Board. These reports/declarations shall contain statements  
12 relative to Respondent's compliance with all the conditions of the Board's Probation Program.  
13 Respondent shall immediately execute all release of information forms as may be required by the  
14 Board or its representatives.

15 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every  
16 state and territory in which he has a registered nurse license.

17 **6. Function as a Registered Nurse.** Respondent, during the period of probation, shall  
18 engage in the practice of registered nursing in California for a minimum of 24 hours per week for  
19 6 consecutive months or as determined by the Board.

20 For purposes of compliance with the section, "engage in the practice of registered nursing"  
21 may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
22 non-direct patient care position that requires licensure as a registered nurse.

23 The Board may require that advanced practice nurses engage in advanced practice nursing  
24 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

25 If Respondent has not complied with this condition during the probationary term, and  
26 Respondent has presented sufficient documentation of his good faith efforts to comply with this  
27 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
28 extension of Respondent's probation period up to one year without further hearing in order to

1 comply with this condition. During the one year extension, all original conditions of probation  
2 shall apply.

3       **7. Employment Approval and Reporting Requirements.** Respondent shall obtain  
4 prior approval from the Board before commencing or continuing any employment, paid or  
5 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
6 performance evaluations and other employment related reports as a registered nurse upon request  
7 of the Board.

8       Respondent shall provide a copy of this Decision to his employer and immediate  
9 supervisors prior to commencement of any nursing or other health care related employment.

10       In addition to the above, Respondent shall notify the Board in writing within seventy-two  
11 (72) hours after he obtains any nursing or other health care related employment. Respondent  
12 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,  
13 regardless of cause, from any nursing, or other health care related employment with a full  
14 explanation of the circumstances surrounding the termination or separation.

15       **8. Supervision.** Respondent shall obtain prior approval from the Board regarding  
16 Respondent's level of supervision and/or collaboration before commencing or continuing any  
17 employment as a registered nurse, or education and training that includes patient care.

18       Respondent shall practice only under the direct supervision of a registered nurse in good  
19 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
20 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
21 approved.

22       Respondent's level of supervision and/or collaboration may include, but is not limited to the  
23 following:

24       (a) Maximum - The individual providing supervision and/or collaboration is present in  
25 the patient care area or in any other work setting at all times.

26       (b) Moderate - The individual providing supervision and/or collaboration is in the patient  
27 care unit or in any other work setting at least half the hours Respondent works.

28       (c) Minimum - The individual providing supervision and/or collaboration has person-to-

1 person communication with Respondent at least twice during each shift worked.

2 (d) Home Health Care - If Respondent is approved to work in the home health care  
3 setting, the individual providing supervision and/or collaboration shall have person-to-person  
4 communication with Respondent as required by the Board each work day. Respondent shall  
5 maintain telephone or other telecommunication contact with the individual providing supervision  
6 and/or collaboration as required by the Board during each work day. The individual providing  
7 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to  
8 patients' homes visited by Respondent with or without Respondent present.

9 **9. Employment Limitations.** Respondent shall not work for a nurse's registry, in any  
10 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,  
11 or for an in-house nursing pool.

12 Respondent shall not work for a licensed home health agency as a visiting nurse unless the  
13 registered nursing supervision and other protections for home visits have been approved by the  
14 Board. Respondent shall not work in any other registered nursing occupation where home visits  
15 are required.

16 Respondent shall not work in any health care setting as a supervisor of registered nurses.  
17 The Board may additionally restrict Respondent from supervising licensed vocational nurses  
18 and/or unlicensed assistive personnel on a case-by-case basis.

19 Respondent shall not work as a faculty member in an approved school of nursing or as an  
20 instructor in a Board approved continuing education program.

21 Respondent shall work only on a regularly assigned, identified and predetermined  
22 worksite(s) and shall not work in a float capacity.

23 If Respondent is working or intends to work in excess of 40 hours per week, the Board may  
24 request documentation to determine whether there should be restrictions on the hours of work.

25 **10. Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and  
26 successfully complete a course(s) relevant to the practice of registered nursing no later than six  
27 months prior to the end of his probationary term.

28 Respondent shall obtain prior approval from the Board before enrolling in the course(s).



Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Violation of Probation.** If Respondent violates the conditions of his probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

12. **License Surrender.** During Respondent's term of probation, if he ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender his license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

(1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or

(2) One year for a license surrendered for a mental or physical illness.

13. **Physical Examination.** Within 45 days of the effective date of this Decision, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an

1 assessment of the Respondent's physical condition and capability to perform the duties of a  
2 registered nurse, including a determination as set forth below in the condition titled "Rule-Out  
3 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to  
4 the Board. If medically determined, a recommended treatment program will be instituted and  
5 followed by the Respondent with the physician, nurse practitioner, or physician assistant  
6 providing written reports to the Board on forms provided by the Board.

7 If Respondent is determined to be unable to practice safely as a registered nurse, the  
8 licensed physician, nurse practitioner, or physician assistant making this determination shall  
9 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
10 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall  
11 immediately cease practice and shall not resume practice until notified by the Board. During this  
12 period of suspension, Respondent shall not engage in any practice for which a license issued by  
13 the Board is required until the Board has notified Respondent that a medical determination  
14 permits Respondent to resume practice. This period of suspension will not apply to the reduction  
15 of this probationary time period.

16 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
17 requirement, Respondent shall immediately cease practice and shall not resume practice until  
18 notified by the Board. This period of suspension will not apply to the reduction of this  
19 probationary time period. The Board may waive or postpone this suspension only if significant,  
20 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
21 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
22 Only one such waiver or extension may be permitted.

23 **14. Mental Health Examination.** Respondent shall, within 45 days of the effective date  
24 of this Decision, have a mental health examination including psychological testing as appropriate  
25 to determine his capability to perform the duties of a registered nurse, including a determination  
26 as set forth below in the condition titled "Rule-Out Substance Abuse Assessment." The  
27 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
28 practitioner approved by the Board. The examining mental health practitioner will submit a

1 written report of that assessment and recommendations to the Board. All costs are the  
2 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
3 result of the mental health examination will be instituted and followed by Respondent.

4 If Respondent is determined to be unable to practice safely as a registered nurse, the  
5 licensed mental health care practitioner making this determination shall immediately notify the  
6 Board and Respondent by telephone, and the Board shall request that the Attorney General's  
7 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
8 practice and may not resume practice until notified by the Board. During this period of  
9 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
10 is required, until the Board has notified Respondent that a mental health determination permits  
11 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
12 probationary time period.

13 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
14 requirement, Respondent shall immediately cease practice and shall not resume practice until  
15 notified by the Board. This period of suspension will not apply to the reduction of this  
16 probationary time period. The Board may waive or postpone this suspension only if significant,  
17 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
18 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
19 Only one such waiver or extension may be permitted.

20 15. **Rule-Out Substance Abuse Assessment.** If the examiner conducting the physical  
21 and/or mental health examination determines that the respondent is dependent upon drugs or  
22 alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or alcohol  
23 dependence in remission), that might reasonably affect the safe practice of nursing, then the  
24 respondent must further comply with the following additional terms and conditions of probation:

25 A. **Participate in Treatment/Rehabilitation Program for Chemical**  
26 **Dependence.** Respondent, at his expense, shall successfully complete during the  
27 probationary period or shall have successfully completed prior to commencement  
28 of probation a Board-approved treatment/rehabilitation program of at least six

1 months duration. As required, reports shall be submitted by the program on forms  
2 provided by the Board. If Respondent has not completed a Board-approved  
3 treatment/rehabilitation program prior to commencement of probation,  
4 Respondent, within 45 days from the effective date of the decision, shall be  
5 enrolled in a program. If a program is not successfully completed within the first  
6 nine months of probation, the Board shall consider Respondent in violation of  
7 probation.

8 Based on Board recommendation, each week Respondent shall be required  
9 to attend at least one, but no more than five 12-step recovery meetings or  
10 equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse  
11 support group as approved and directed by the Board. If a nurse support group is  
12 not available, an additional 12-step meeting or equivalent shall be added.  
13 Respondent shall submit dated and signed documentation confirming such  
14 attendance to the Board during the entire period of probation. Respondent shall  
15 continue with the recovery plan recommended by the treatment/rehabilitation  
16 program or a licensed mental health examiner and/or other ongoing recovery  
17 groups.

18 **B. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent  
19 shall completely abstain from the possession, injection or consumption by any  
20 route of all controlled substances and all psychotropic (mood altering) drugs,  
21 including alcohol, except when the same are ordered by a health care professional  
22 legally authorized to do so as part of documented medical treatment. Respondent  
23 shall have sent to the Board, in writing and within fourteen (14) days, by the  
24 prescribing health professional, a report identifying the medication, dosage, the  
25 date the medication was prescribed, the Respondent's prognosis, the date the  
26 medication will no longer be required, and the effect on the recovery plan, if  
27 appropriate.

28 Respondent shall identify for the Board a single physician, nurse

1 practitioner or physician assistant who shall be aware of Respondent's history of  
2 substance abuse and will coordinate and monitor any prescriptions for Respondent  
3 for dangerous drugs, controlled substances or mood-altering drugs. The  
4 coordinating physician, nurse practitioner, or physician assistant shall report to the  
5 Board on a quarterly basis Respondent's compliance with this condition. If any  
6 substances considered addictive have been prescribed, the report shall identify a  
7 program for the time limited use of any such substances.

8 The Board may require the single coordinating physician, nurse  
9 practitioner, or physician assistant to be a specialist in addictive medicine, or to  
10 consult with a specialist in addictive medicine.

11 **C. Submit to Tests and Samples.** Respondent, at his expense, shall  
12 participate in a random, biological fluid testing or a drug screening program which  
13 the Board approves. The length of time and frequency will be subject to approval  
14 by the Board. Respondent is responsible for keeping the Board informed of  
15 Respondent's current telephone number at all times. Respondent shall also ensure  
16 that messages may be left at the telephone number when he is not available and  
17 ensure that reports are submitted directly by the testing agency to the Board, as  
18 directed. Any confirmed positive finding shall be reported immediately to the  
19 Board by the program and Respondent shall be considered in violation of  
20 probation.

21 In addition, Respondent, at any time during the period of probation, shall  
22 fully cooperate with the Board or any of its representatives, and shall, when  
23 requested, submit to such tests and samples as the Board or its representatives may  
24 require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other  
25 controlled substances.

26 If Respondent has a positive drug screen for any substance not legally  
27 authorized and not reported to the coordinating physician, nurse practitioner, or  
28 physician assistant, and the Board files a petition to revoke probation or an

1 accusation, the Board may suspend Respondent from practice pending the final  
2 decision on the petition to revoke probation or the accusation. This period of  
3 suspension will not apply to the reduction of this probationary time period.


4 If Respondent fails to participate in a random, biological fluid testing or  
5 drug screening program within the specified time frame, Respondent shall  
6 immediately cease practice and shall not resume practice until notified by the  
7 Board. After taking into account documented evidence of mitigation, if the Board  
8 files a petition to revoke probation or an accusation, the Board may suspend  
9 Respondent from practice pending the final decision on the petition to revoke  
10 probation or the accusation. This period of suspension will not apply to the  
11 reduction of this probationary time period.

12 D. Therapy or Counseling Program. Respondent, at his expense, shall  
13 participate in an on-going counseling program until such time as the Board  
14 releases him from this requirement and only upon the recommendation of the  
15 counselor. Written progress reports from the counselor will be required at various  
16 intervals.

17 ACCEPTANCE

18 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
19 discussed it with my attorney, Paul Chan. I understand the stipulation and the effect it will have  
20 on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order  
21 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
22 Board of Registered Nursing.

23  
24 DATED: 1/9/2013

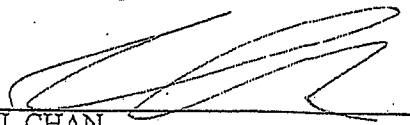
  
25 CHRISTOPHER MATTHEW CRUZ  
26 Respondent  
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I have read and fully discussed with Respondent Christopher Matthew Cruz the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

I approve its form and content.

DATED: 1/9/13

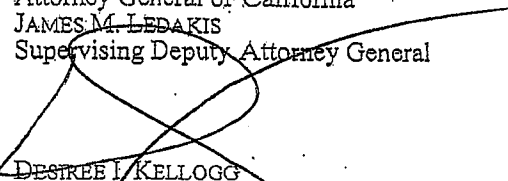
  
PAUL CHAN  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 1/10/13

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
JAMES M. LEDAKIS  
Supervising Deputy Attorney General

  
DESTREE I. KELLOGG  
Deputy Attorney General  
*Attorneys for Complainant*

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## **Exhibit A**

**Statement of Issues No. 2013-53**



1 KAMALA D. HARRIS  
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2 LINDA K. SCHNEIDER  
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4 Senior Legal Analyst  
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6 San Diego, CA 92186-5266  
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7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
12 Against:

Case No. **2013-S3**

13 **CHRISTOPHER MATTHEW CRUZ**

**STATEMENT OF ISSUES**

14 **Registered Nurse License Applicant**

15 **Respondent.**

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in  
20 her official capacity as the Interim Executive Officer of the Board of Registered Nursing,  
21 Department of Consumer Affairs.

22 2. On or about June 27, 2011, the Board of Registered Nursing, Department of  
23 Consumer Affairs received an application for a Registered Nurse License from Christopher  
24 Matthew Cruz (Respondent). On or about June 3, 2011, Christopher Matthew Cruz certified  
25 under penalty of perjury to the truthfulness of all statements, answers, and representations in the  
26 application. The Board denied the application on February 16, 2012.

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28 ///

## JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

## STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

1 (3) (A) Done any act that if done by a licentiate of the business or profession  
2 in question, would be grounds for suspension or revocation of license.

3 (B) The board may deny a license pursuant to this subdivision only if the  
4 crime or act is substantially related to the qualifications, functions, or duties of the  
5 business or profession for which application is made.

6 .....

7 7. Section 482 of the Code states:

8 Each board under the provisions of this code shall develop criteria to evaluate  
9 the rehabilitation of a person when:

10 (a) Considering the denial of a license by the board under Section 480; or

11 (b) Considering suspension or revocation of a license under Section 490.

12 Each board shall take into account all competent evidence of rehabilitation  
13 furnished by the applicant or licensee.

14 8. Section 2761 of the Code states:

15 The board may take disciplinary action against a certified or licensed nurse or  
16 deny an application for a certificate or license for any of the following:

17 (a) Unprofessional conduct, which includes, but is not limited to, the  
18 following:

19 .....

20 (f) Conviction of a felony or of any offense substantially related to the  
21 qualifications, functions, and duties of a registered nurse, in which event the record of  
22 the conviction shall be conclusive evidence thereof.

23 .....

24 9. Section 2762 of the Code states:

25 In addition to other acts constituting unprofessional conduct within the meaning  
26 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person  
27 licensed under this chapter to do any of the following:

28 .....

(b) Use any controlled substance as defined in Division 10 (commencing with  
Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous  
device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner  
dangerous or injurious to himself or herself, any other person, or the public or to the  
extent that such use impairs his or her ability to conduct with safety to the public the  
practice authorized by his or her license.

///

1 (c) Be convicted of a criminal offense involving the prescription, consumption,  
2 or self-administration of any of the substances described in subdivisions (a) and (b) of  
3 this section, or the possession of, or falsification of a record pertaining to, the  
substances described in subdivision (a) of this section, in which event the record of  
the conviction is conclusive evidence thereof.

4 .....  
5 10. Section 2765 of the Code states:

6 A plea or verdict of guilty or a conviction following a plea of nolo contendere  
7 made to a charge substantially related to the qualifications, functions and duties of a  
8 registered nurse is deemed to be a conviction within the meaning of this article. The  
9 board may order the license or certificate suspended or revoked, or may decline to  
10 issue a license or certificate, when the time for appeal has elapsed, or the judgment of  
conviction has been affirmed on appeal or when an order granting probation is made  
11 suspending the imposition of sentence, irrespective of a subsequent order under the  
provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his  
or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of  
guilty, or dismissing the accusation, information or indictment.

## 12 REGULATORY PROVISIONS

13 11. California Code of Regulations, title 16, section 1444 states:

14 A conviction or act shall be considered to be substantially related to the  
15 qualifications, functions or duties of a registered nurse if to a substantial degree it  
16 evidences the present or potential unfitness of a registered nurse to practice in a  
manner consistent with the public health, safety, or welfare. Such convictions or acts  
shall include but not be limited to the following:

17 (a) Assaultive or abusive conduct including, but not limited to, those violations  
18 listed in subdivision (d) of Penal Code Section 11160.

19 (b) Failure to comply with any mandatory reporting requirements.

20 (c) Theft, dishonesty, fraud, or deceit.

21 (d) Any conviction or act subject to an order of registration pursuant to Section  
290 of the Penal Code.

22 12. California Code of Regulations, title 16, section 1445 states:

23 (a) When considering the denial of a license under Section 480 of the code,  
24 the board, in evaluating the rehabilitation of the applicant and his/her present  
eligibility for a license will consider the following criteria:

25 (1) The nature and severity of the act(s) or crime(s) under consideration as  
grounds for denial.

26 (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s)  
27 under consideration as grounds for denial which also could be considered as grounds  
28 for denial under Section 480 of the code.

1 (3) The time that has elapsed since commission of the act(s) or crime(s)  
2 referred to in subdivision (1) or (2).

3 (4) The extent to which the applicant has complied with any terms of parole,  
4 probation, restitution, or any other sanctions lawfully imposed against the applicant.

5 (5) Evidence, if any, of rehabilitation submitted by the applicant.

6 ....

7 **FIRST CAUSE FOR DENIAL OF APPLICATION**

8 **(November 20, 2000 Criminal Conviction for Vehicular Manslaughter**

9 **With Gross Negligence on February 19, 2000)**

10 13. Respondent's application is subject to denial under sections 480, subdivisions  
11 (a)(1) and (a)(3)(A), and 2761, subdivision (f) of the Code in that he was convicted of a crime  
12 that is substantially related to the qualifications, duties, and functions of a registered nurse. The  
13 circumstances are as follows:

14 a. On or about November 20, 2000, in a criminal proceeding entitled *In re*  
15 *Christopher Matthew Cruz*, in Orange County Superior Court (Juvenile Justice Center), case  
16 number DL006056-001, Respondent admitted the allegations contained in Petition 001 charging  
17 Respondent with vehicular manslaughter with gross negligence, a felony, as a proximate cause of  
18 violating Vehicle Code sections 22349, 22350, and 22107. The court found the allegations true  
19 beyond a reasonable doubt. Respondent was declared a ward of the court, and he was ordered to  
20 pay restitution, submit to a Fourth Amendment waiver, complete 200 hours of volunteer  
21 community service, participate in counseling, and comply with the terms of felony probation.

22 b. The circumstances that led to the conviction are that on or about the  
23 evening of February 19, 2000, patrol officers with the Anaheim Police Department responded to a  
24 report of a major injury vehicle collision. Based on the investigation, an accident scene  
25 reconstruction, and witness statements, it was determined that Respondent was driving a Camaro  
26 at nearly twice the posted speed limit of 40 mph, when he lost control of the vehicle at a left  
27 curve. Respondent's vehicle skidded out of control and into the path of another vehicle, forcing it  
28 off the road. Respondent's vehicle crashed into an electrical junction box. The front seat  
passenger was ejected from the vehicle and was killed.

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1 During booking he provided a blood sample which was subsequently analyzed with a BAC of .18  
2 percent.

3 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

4 **(Unprofessional Conduct - Dangerous Use of Alcohol)**

5 16. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A)  
6 of the Code in that on or about June 18, 2011, Respondent used alcoholic beverages to an extent  
7 or in a manner that was dangerous and potentially injurious to himself and the public when he  
8 operated a motor vehicle while under the influence of alcohol, as detailed in paragraph 15, above,  
9 which would be a ground for discipline under section 2762, subdivision (b) of the Code for a  
10 licensed registered nurse.

11 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

12 **(Unprofessional Conduct – Alcohol-Related Conviction)**

13 17. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)  
14 of the Code in that on or about October 31, 2011, Respondent was convicted of an alcohol-related  
15 offense, as detailed in paragraph 15, above, which would be a ground for discipline under section  
16 2762, subdivision (c) of the Code for a licensed registered nurse.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
19 and that following the hearing, the Board of Registered Nursing issue a decision:

- 20 1. Denying the application of Christopher Matthew Cruz for a Registered Nurse  
21 License;  
22 2. Taking such other and further action as deemed necessary and proper.

23  
24  
25 DATED: July 17, 2012

Louise R. Bailey  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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